



## CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Request to Join in Amicus Brief in the case of City of Carlsbad v. Baker, et al.

**MEETING DATE:** May 1, 2002

**PREPARED BY:** Randall A. Hays, City Attorney

**RECOMMENDATION:** That the City join the Amicus Brief in the case of City of Carlsbad v. Baker, et al.

**BACKGROUND:** Amicus Briefs are filed in various actions, which involves matters of wide-ranging concern to provide information and additional argument to the Court in order to assist the Court in understanding all of the issues and arrive at a conclusion.

The issue in this case is whether business owners may recover the damage to their business inventory and personal property as a result of a city's action to take property through eminent domain on adjacent land. The trial court found that the business owners could recover. This particular finding is contrary to the existing state of eminent domain law. Upon review of this case by the League of California Cities, it is their recommendation that cities join an Amicus Brief to the Court of Appeal.

This case is important because it represents a tremendous expansion of the nature of damages that can be claimed. In essence, the business owners claimed that due to anticipated growth and urbanization from roadway improvements, they could receive compensation for prospective and speculative severance damages. Again, let me reiterate this request comes to you based upon a request from the League that cities join an amicus brief in this case.

Funding: Not applicable.

Respectfully submitted,

  
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Randall A. Hays, City Attorney

APPROVED: \_\_\_\_\_

  
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H. Dixon-Elynn -- City Manager